

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Regarding the
Implementation of the Suspension of Direct
Access Pursuant to Assembly Bill 1X and
Decision 01-09-060.

Rulemaking 02-01-011
(Filed January 9, 2002)

**ADMINISTRATIVE LAW JUDGE'S RULING
REGARDING PROCEEDINGS ON REHEARING ISSUES
AS DIRECTED IN DECISION 03-08-076**

This ruling is issued in accordance with the directives in Decision (D.) 03-08-076 (Rehearing Order) which granted limited rehearing of D.03-07-028 regarding the cost responsibility surcharge (CRS) on Municipal Departing Load within the service territories of Pacific Gas and Electric Company (PG&E), Southern California Edison Company (Edison), and San Diego Gas & Electric Company (SDG&E) (collectively, the "IOUs").

In D.03-07-028, the Commission determined that a limited CRS exemption should apply to "new municipal load," and attributed this new load to existing publicly owned utilities in the service territories of PG&E, Edison, and SDG&E. D.03-08-076 granted limited rehearing, however, on the issue of extending this exemption to existing publicly owned utilities and not to newly formed ones. As directed in D.03-08-076, a further record is to be developed concerning whether, or to what extent, there is sufficient factual basis for a CRS allocation based on whether the publicly owned utility was formed before or after February 1, 2001. Accordingly, this ruling is issued to solicit comments from parties on this issue.

To the extent that a distinction between newly formed and existing publicly owned utilities may not offer a proper basis for allocation, parties may suggest other bases that would provide an alternative acceptable allocation of CRS to new municipal load.

As directed in the rehearing order, parties' comments shall address the following issues in accordance with the scope of this limited rehearing as prescribed by D.03-08-076:

- (1) What was the time period covered by the forecasts that were submitted by the IOUs to [the California Department of Water Resources] DWR, and to what extent did DWR utilize and/or rely on these forecasts in entering into its contractual commitments?
- (2) What level of future load growth incorporated in the IOUs' forecasts provided to DWR was attributable to municipalization? Distinguish where possible, between municipal annexation of existing utility customer load versus municipal installation of new facilities in previously undeveloped areas?
- (3) What amount of future municipal load growth in the IOUs' forecasts provided to DWR was expressly attributable to (a) new load of existing publicly owned utilities; (b) new load of publicly owned utilities formed on or after February 1, 2001?
- (4) To what extent, if any, did DWR take into account distinctions between load growth of newly formed publicly owned utilities versus that of existing publicly owned utilities in its contractual commitments?
- (5) Should the Commission apportion any CRS exception between existing publicly owned utilities and publicly owned utilities newly formed on or after February 1, 2001, as prescribed in D.03-07-028? If not, how should any exception from paying the CRS be allocated with respect to new load?

As directed in the Rehearing Order, these issues shall be considered in conjunction with the inquiry clarifying the "definition of existing publicly owned

utilities.” (See D.03-07-028, p. 62.) In this regard, parties should take into account the comments on this issue that were filed in response to the Administrative Law Judge’s ruling dated July 23, 2003. During these proceedings, there shall also be consideration of any “unintended effect of causing impermissible cost-shifting,” due to any limited exception provided for new load. (D.03-07-028, p. 61.)

To facilitate parties’ analysis and comments, a letter, dated September 26, 2003, is attached to this ruling from the Deputy Comptroller of DWR to the Commission’s Energy Division Director providing pertinent information regarding the new municipal load issue. Parties should take into account the information provided in the letter in framing their comments in response to this ruling.

In their comments, parties may offer methods to minimize any adverse effects, e.g., imposing caps or other limits on CRS subject to any limited exception for new load. The limited rehearing is intended to permit reconsideration of the allocation issue, but is not intended to relitigate any other issues determined in D.03-07-028.

IT IS RULED that:

1. Comments are hereby solicited concerning the issues identified for rehearing as set forth in Decision 03-08-076, as outlined above. Parties should take into account the information provided in the attached letter from the California Department of Water Resources in framing their comments in response to this ruling.

2. Any party that believes that evidentiary hearings, workshops, or other additional measures are necessary to resolve the issues as identified in the rehearing order, should so indicate, and identify what material facts in dispute require workshops and/or hearings.

3. Opening comments shall be due on December 2, 2003, and reply comments shall be due on December 16, 2003.

Dated October 20, 2003, at San Francisco, California.

/s/ THOMAS R. PULSIFER

Thomas R. Pulsifer
Administrative Law Judge

ATTACHMENT

**Letter from the Deputy Comptroller of DWR
to the Commission's Energy Division Director**

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Regarding Proceedings on Rehearing Issues as Directed in Decision 03-08-076 on all parties of record in this proceeding or their attorneys of record.

Dated October 20, 2003, at San Francisco, California.

/s/ KE HUANG

Ke Huang

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.